## LAW INTELLIGENCE.

THE MURDER OF EUGENE ANDERSON.

NO VERDICT DISCHARGE OF THE JURY.

The first trial of Michael Cancomi, who was indicted for the aleged murder of Eugene Anderson, was con-cluded at H o'clock yesterday morning—the Jury fail-

ing to scree upon a verdict. Judge Received appeared it was formally opened

Judge Recesevoit appeared in Court at the usual bour, and soon after the Court was formally opened by the Officer, Judge Roosevelt announced that his preserve was required in the General Term of the Eupretee Court, where, on account of the importance of the case that was to be there argued (the Lemon sixve case), it was deemed advisable that the full betree of twe judges sit on the hearing. In the case which was on trial before him, he said that he had received a communication from the jurous as follows:

The Helmor the Judge of the Court of Open and Terminer:

The Jurous in the case of Muchael Cancemi are still coable to spres. The case has received their full and careful coable to spres. The case has received their full and careful coable to spres. The case has received their full and careful coable to spres. The case has received their full and careful consistence, but, since their last communication to your consideration, but, since their last communication to your consistence are presented deprived of personal liberty, without, in they feel themselve deprived of personal liberty, without, in they feel themselve deprived of personal liberty, without, in they feel themselve deprived of personal structuol to their own stars, in the present trying hour, some of them are pecuniary offerers to a great degree.

The Jurors hope that the considerations meationed, as well as hamy others which must present themselves to your mind, will same your Honer to view favorably their condition, and they alone to releve them rest their present paintly confinement.

Having read the community has your Honer to releve them rest their present paintly confinement.

Having read the communication, Judge Roosevelt in the same formed as impression after two days'

W BAILLY LANG, Foreman.

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Having read the communication, Judge Roosevelt did that, having formed an impression after two days on finement of '9 Jury, that there was was no possibility of the disining a unanimity of opinion, he had country as execution that it would not be proper to keet team together longer; but, not wishing to rely whelly upon his own opinion in the matter, he had animited his conclusions to the other Judges of the Supreme Country take their advice, and they had fully cone ared as the conclusion to which he had arrived at the stated this, in addition to the considerations which were expressed in the communication of the Jury, being reasons why the request should be granted.

Mr. Hall seked if he understood the Jury in their

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they had had no discussion upon the merits of the case.

Judgs ktoosevelt—None upon the evidence.

Mr. Hall—Then I shou'd be doing injustice to the community to ask that such a Jury be any longer heritogether.

Juge ktoosevelt—I must say, gentlemen, that the Jury which has est in this case are presumed to be insuligent men, who have minds of their own; they together, with the Judge, form component parts of the cont, and I think they are entitled to proper deference in their conclusions, whatever they may be, when the Court has no reason to suppose, as in this metance, that they are actuated by improper motives. The Jury seem to be an extremely intelligent body of men. I have seld in seen in this jury-box those who were more so, and it is not for me to attempt to force them to a conclusion; I would suggest, ho wever, as it may save a great deal of time (as the issues by the course that was taken by the counsel for the defense is narrowed down to a mere moment of time and a very narrow space), that if there is to be another trial, which I suppose there must be, it should be had importantly in the state of the course that would be almost impossible to do so.

rediately.

Vr. Hall—It would be almost impossible to do so There must be time given for the subsidence of the popular excitement upon the subject. The papers have flooded the particulars of this trial all over the community, and they are fresh in the minds of every-tode. community, and they are fresh in the minds of every body.

Judge Roesevelt—It will be seen that there is noth

Judge Roosevelt—It will be seen that there is nothing in issue, except as to what took place within a period of a very few minutes. It is admitted by the conteel for the defense that the prisoner was the person who rac, and who was traced through these various streets until he reached his domicil, and that he was the person who entered the house in that particular way. Was there or was there not on this occasion any other person on that spot, who by any evidence that can be introduced could by any likelihood be shown to be the perpetrator of this deed? The issue is narrowed at once to that single point.

Mr. Hall—The presecution has never had a case which has required more time to collect the evidence. The alleys and streets along the route through which the prisoner ran have been fairly swept to get at all the facts.

Mr. Blankman—Yes; I have no doubt they have.

Mr. Hall—But as there is no question before Count except that of the discharge of the Jury, I cheerfally concede the request.

A messenger here arrived with a note to Judge Roosevelt.

Judge Roosevelt (after reading the note)—The

A messenger here arrived with a note to Judge Roseveit.

Judge Roseveit (after reading the note)—The Judges in General Term have sent for me, and wish my attendance with them below unless I am necessarily detained here. The officer will therefore bring in the Jury.

At 10) o'clock the Jury came in and took their seats. The Clerk proceeded to call their names, to which they severally answered.

Judge Roseveit said: The Court has received your amouncement, gentlemen, and participates in the embarrassment of your position. Before receiving it, I had apprehended that some such result would follow, and this morning, having heard that you did not agree, I submitted my conclusion to two of my colleagues in the Court below. They both concurred in the conclusion that I had arrived at, which was, that it would be useless, and, perhaps, injurious to attempt to force you any longer (if it can be called forcing, by keeping on its consequence in a service at a mannious which sion that I had arrived at, which was, that it would be useless, and, perhaps, injurious to attempt to force you any longer (if it can be called forcing, by keeping you in confinement) in arriving at a unanimity, which you seem unable to attain by the ordinary course of consultation and reasoning with each other. It would have been usery desirable that the case should have been finally disposed of on this trial, but there are undoubtedly, in this life, things which are merally, as well as physically, impossible, and it is not to be supposed that the minds of men can be forced to agree. The system that prevails here, unlike that which txists in some foreign countries, requires absolute unanimity in the conclusions of the Jury. In some countries a concurrence of nine out of the tweive Jurors is only required for a verdict of the Jury. In some countries a concurrence of nine out of the tweive Jurors is only required for a verdict after they have been out a certain length of time; but here we must have absolute unanimity of opinion, in accordance with the requirements of the old common law. Under these circumstances, although we see the difficulty which arises out of your disagreement, yet, at the same time, we sympathize with you in the inconvenience that you must have experienced, and I have to thank you for the impartial and laborious manner in which you have discharged your duties; I only regret that you are unable to agree upon a verdict. You are now discharged absolutely for the term. Should the Court deem it necessary to retry this cause during the term, another Jury will no doubt be called, as I presume it would not be desirable to bring the lease be fore you again for further trial.

Mr. Lang the foreman, stated that he desired to say a few words in behalf of his fellow-jurors, which they had requested him to do, and which he would cheerfully concur in as being the expression of his own feelings. Although they had been rather hardly treated by the efficers, who cut them off from all communication between themselves and those outside, and from all information, yet they wished to return to them their sincere thanks for the kindness otherwise that they had manifested. Whenever they had expressed any desire for any necessary counterts they had expressed any desire for any necessary counterts they had been cheerfully afforded.

rally afforded.

THE CONSULTATION OF THE JURY.

The Jury retired, after the charge of the Court, at 5 o'clock on Tursday night, and at once proceeded to ascertain their respective views upon the guilt or innocence of the prisoner, as developed by the evidence which had been elicited on the trial. A ballot was taken twenty minutes after they retired, with the following result:

James Courtosy, shoe-dealer, No. 50 Grand street, not guilty. Wm. H. Botton, oyster-dealer, No. 201 South street, guilty. Thus Haight No. 201 Ninth avenue, guilty.

Samuel D Arthur, provision dealer, No. 36 Greenwich street, guilty.

guilty.

Anson Hubbard, dry goods dealer, No. 7 Bond street, guilty.

John F Browne, harp manufacturer, No. 233 Broadway, not

city. Broadway, nor with the Erosal Little Charles Aiden, preserve manufacturer, No. 11 Old Sip, goalty. Alonso Taylor, usachinist, No. 107 Elm street, guilty. Jacob D. T. Hersey, straw-goods dealer, No. 130 Broadway, or smilty.

not guilty.

W. Balley Lang, fron-dealer, No. 54 Cliff strest, not guilty.

Tames Malocim, builder, No. 142 Mulberry street, guilty.

The Jury, finding so great a diversity of opinion, immediately commenced consulting and comparing their recollections of the evidence, with the view of arriving at an agreement. After an hour's consulta-tion, they divided, and found that they stood as they had on the ballot.

The entire night was passed in discussing the bear-

The estire night was passed in discussing the bearings of the evidence. The discussion turned almost wholly spon the weight to be given to the evidence of the German, Lauth, and the colored girl, Aun Elizabeth Snith, the majority of the Jury insisting that Lauth had distinctly stated that he saw the firing and saw the man who fired running from the spot, and had a view of his face as he passed him, so that he was able to identify him as the prisoner on trial. It was stated by the Jury that, if it could be shown that Lauth distinctly swore thus, it would remove any missivings the minority had as to the guilt of Caccemi. When the Court was opened on Wednerday morning, a request was sent for the testimony of Lauth, both on the trial and before the Coroner's Jury.

The request was granted and The Trinunk's report of the evidence of Louth was seet to the Jary.

The evidence of Louth, as it affected the disputed points was an follows:

I saw after 4 o clock, when I was dragging my hard-cart on Centre street a policeman coming, the policeman lumped quickly from Coutre street to Grand street, then a lumped quickly from Coutre street to Grand street, and he came very near to the policeman and fired a plated at him;

\* \* then the man who shot him run near my cert through carnel to Ein street, and I afterward west on and did not see anything more; when the man passed me, he took the pisted from one hand into the other and put it in hus po ket; when he get to Ein street he and down toward Count street.

Q. Who is the man who shot? A I do not know him; he was a man with black whiskers; I do not know him; he was a man with black whiskers. I do not know him; he mustrobe; he was about the size of the interpreter fahort and fall;

mustacle, he was about the size of the interpreter [short and full).

Q. Have you seen the man since? A Yes, the very same day in the Station-House; the man ran within four to five paces from my cart; between two and three paces; I should say very rear to it, in fact; I was spoint from the Bowery toward Elm street; I stopped my cart perhaps for a moment, and then west on; " " I neat saw the man who shot at the officer in the Tombs when they brought him back, and soon after a peliceman took me in charge and brought me to the Station-House.

Witness cross examined by Mr. Blankman—It was some time after 4 o'clock—I can't tell when—that this occurrence took place; Anderson came across Centre street to the angle of Grand street, where he was shot; when the shot was fired, I could not see the man fire, but as soon as he shot be turned round, and I saw his face. " I was scarcely a house distant from the spot when the shot was fired; I was in the middle of Grand street toward Broadway.

A Juror-Have you seen the man who shot Anderson in this room?

A No Site

A. No. Sir.

Mr. Blankman—Let the witness stand up and see.
Witness [standing up]—I see him—the dark man.

Mr. Phillips—Point him out. [The witness pointed out the presence!]
Witness [resuming]—I have been here since Monday; I was in the rear of the roum curing the progress of this trial; another man, who was to be also a witness, was with me; there was nobody who pointed out the prisoner is me yesterday; I spoke about him yesterday and the day before several times to the other witness, and we saw him at the time.

about him yesterday and the day before several times to the other witness, and we saw him at the time.

After the evidence was read, Mr. Hersey said he was satisfied that the identity of the prisoner with the man who shot, was sufficiently proven to satisfy him, and on a division of the Jury being taken, he changed his vote from not guilty to guilty, but Mr. Malcolm, one of the Jurors who had previously believed in the guilt of the prisoner, had, up a further consideration, come to the conclusion that it was not fully established They continued to discuss the matter until Wednesday afterneen, and finding there was no possibility of an agreement, the subject was, by general consent, dropped, and when they came into Court yesterday morning, they stood as follows:

For the verdict of Guilty:

Messrs. Boiton, Haight, Arthur, Hubbard, Littlefield, Alden, aylor and Hersey.

For a verdict of Not Guilty:

Messrs Courtney, Browne, Lang and Malcolm.

One of the Jurors who voted "Not guilty" offered a resolution before coming into court, to suppress the facts connected with their discussions, and especially the names and votes of jurors on the divisions. It was not agreed to.

SUPREME COURT—GENERAL TERM—Oct. 1.—Before all the Judges, MITCHELL, ROOSEVELT, CLERKE, DAVIES, and PEANODY.
The People ex rel. Louis N. Bonaparte va. Jonathan Lemmon, appellant.
This case came on this morning. At the opening of

the Court, Mr. John Jay, as amicus curia, read a paper suggesting to the Court that they had no right to hear the appeal, it being a case in which the par-ties had no interest and consequently not entertainable under the Code. His statements were as follows. though not verified by affidavits: When the slaves were set free some years ago a subscription was raised to purchase them, Mr. Lemmon entered into a contract that if the judgment of the Superior Court were reversed, and the negroes ordered back to his custody, he would sell them for the sum raised. Moreover, the slaves are now in Canada, out of the reach of any ex-

he would sell them for the sum raised. Moreover, the slaves are now in Canada, out of the reach of any extracition process. Mr. Jay contended that both by the fact of their being out of the United States, and by the above-mentioned contract, Mr. Lemmon, even were this suit determined in his favor, would gain nothing, and consequently was not a party in interest. The suit was in reality between the States of New-York and Virginia, neither of them having an interest in the sense of the Code, but contending to establish a general principle. Such a case the Court cannot entertain under the Code. Moreover, it would be urjust to future parties, since they would be bound by this decision, and precluded from applying for relief upon an actual state of facts and in the tribunal of their choice.

To this Mr. O'Conor replied that he had a right to decline answering the above suggestions until they were verified by oath, and an order was made by the Court requiring him to show essues why the case should not be dismissed. But waiving this, he urged that the parties had an interest in this suit. Mr. Lemmon's contract of sale was executory and conditional. He had not parted with his right in the negroes. Even suppose they were in Canada and out of his reach, yet a judgment in his favor would establish his right to them, and he was thus interes'ed in the suit. Further, were the appeal sustained, Mr. Lemmon might execute the contract of sale and obtain the price of the slaves. If the decision was against him he could receive nothing. Here was certainly a substantial interest in the irrue of this case. Again, even had the contract of sale been executed, yet Mr. Lemmon who made it had no right according to our law to dispose of the negroes. They were Mrs. Lemmon's and are so still. The counsel for the people had themselves admitted the right of the Court to entertain this appeal by taking measures in reference to the security for its prosecution.

Abd there is a further answer to the suggestions of

And there is a further answer to the suggestions of Mr. Jay. The Legislature of the State of New-York, knowing all the facts, passed a resolve that this case should be contested by the People. The Exocaive concurred in this by taking the steps required. Does not this concurrence of the two law-making departments of the Government amount to a repeal of the provision of the Code relating to the interest of parties, in this particular case, or an exception of this case from the general rule? And lastly, the rights of future suitors cannot be injured. For the State can surely employ more effectual means to vindica's and establish the general principle contended for by the People, than any private individual in any suit that may arise hereafter.

The Court decided that Mr. Lemmon's contract of sale being only executory he still had an interest and

eale being only executory he still had an interest and could prosecute the appeal. It was intimated that had the sale been absolute the decision would have been otherwise.
The case then proceeded to argument. The facts

The care then proceeded to argument. The racts are as follows:

In November, 1852, Jonathan Lemmen and Juliet his wife, having been before that time residents and citizens of the State of Virginia, brought eight colored persons to this city, intending to take passage with them immediately to Texas. A writ of habeas corpus was sued out before Mr. Justice Paine of the Superior Court in behalf of the negroes thus being in transitu. The above facts were returned as the cause of their detention—to the sufficiency of which the People demurred. The demurrer was sustained on argument, and the negroes set free. Mr. Lemmon brought the proceedings into this Court by certiorars.

Mr. O'Conor began and snished his argument for

Mr. O'Conor began and anished his argument for Mr. Lemmon. He spoke about three hours. Mr. Mr. Lemmon. He spoke about three hours Mr. Evarts then spoke until 3 o'clock, when the Court ad-journed till to-morrow, when he will conclude. Mr. journed till to-morrow, when he will conclude. M Blunt will follow on the same side, and Mr. O Cor

Below we give the points of the three counsel:

Blunt will follow on the same side, and Mr. O Conor reply.

Below we give the points of the three counsel:

MR. O CONOR S FOINTS.

First Point—The ancient general or common law of this S are suthorized the holding of meroes as slaves therein. The Judiciary never had any Constitutional power to annul repeal or set saide this law and, consequently. It is only by force of some positive enactment of the legislative authority that one coming into our territory with such slaves in his lawful possession, could suffer any loss or diminution of his title to them as his property.

1. In every argument and judicial opinion relating to the subject, it is admitted that Slavery existed at an early period under the numicipal law, and was recognized by statute in this State. (Colonial slave act of N. Y., March 8 1773. Jack v. Martin, 12 Wend, 323. Jackson v. Balloch, 12 Conn. B. 42, 15 61, Comth v. Aves. 18 Pick 203. 9. Per Cur. Scott v. Sandford. 19 How. 407-8. Per McLean J., 16 Peters 560-15 lb. p. 307.)

11. Nesro Slavery never was a part of the municipal law of England, and consequently the inflated speeches of French and British judges and orators touching the purity of the sir and soil of their respective countries, whatever other purpose they may serve, are alte gether irrelevants to the inquiry what was or is the law of any State in this Union on the subject of Megro Slavery. law of the State Scotch Elequence A. D. 1732, 29 State trials, 11 Note. See English Elequence A. D. 1733, 29 State trials, 11 Note. See English Elequence A. D. 1735, 18 dwarf trials, 11 Note. See English Elequence A. D. 1735, 18 dwarf trials, 11 Note. See English Elequence A. D. 1735, 18 dwarf trials, 11 Note. See English Elequence A. D. 1735, 18 dwarf trials, 11 Note. See English Elequence A. D. 1735, 18 dwarf trials, 11 Note. See English Elequence A. D. 1735, 18 dwarf trials, 11 Note. See English Elequence A. D. 1735, 18 dwarf trials, 12 Note. See English Elequence A. D. 1735, 18 dwarf trials, 12 Note. See English Elequence A. D. 1735, 18 dwarf

colds the stave law of this State which we have shown existed with the samed in of the Lephisters prior to the revolution.

1 Judicial tribunals in this country are a part of the Government, they are naturated from any exercise of the law making power. That governmental function is assigned to a separate

2. There is a year who fail to preview the necessity of keeping a pearls the area; departments of the Gevernment, whose positive the pearls of the Gevernment whose positive the pearls of the Gevernment of the Gevernment of the Control of the Cont

a. The obligations of charity form no exception to this rule.

Charity evicins gravintons arrive to those who are mable to repay; it is not due to sturdy indolence.

b. The universal voice of mankind concedes to the parent a right to the profit and pleasure which may be derived by him from the services of his minor child as a due return for guardiarially and active the control of the intellectual white race to c. Who shall deny the claim of the intellectual white race to

c. Who shall deny the claim of the intellectual white race to its con pensation for the mental toil of governing and guiding the negro laborer? The learned and skillful statesman, soldier, physician, preacher or other expert in any great department of nume nearttien where mind holds dominion over matter, it clothed with power and purrounded with materials for the encyment of mental and physical luxuries in proportion to the measure of his capacity and attriuments. And all this is at the cest of the mechanical and agricultural laborer, to whom such espoyments are denied. If the social order, founded in the different natural capacities of individuals in the same fa mily, which produces these inequalities is not unjust, who can right fully say of the like inequality of condition between races differing in sepacity that it is contrary to a law of nature, or that the governing race who conform to it are guilty of frank and tappine, or that they commit a violence to right reason which is forbidden by morality?

4 "Honeste virere, alterum non lacdere of seum cuipue triburer" are at the precepts of the law. The honorable skywholder kerps them as perfectly as any other member of human society (Inst Book I, tit. I, § 3. I R, Com. 40 - 3 Georgia R. 322

a The crucities of vicious slave owners and the horrors of the slave trade are topics quite irrelevant. It is universal experience that wealth and power afford occasion for the development of man's evil propensities; but as they are also the nacessary means of his improvement, they cannot be called will in their wan nature.

b The tone of mind which, arrogating to itself superior purity of life and a higher moral tone than in the then existing state of know ledge could be supposed to have existed among the guests at the marriage in Cans of Galilee (Ichn, ch. 2)—epipue, as a duty, otal abstinence from wine, is well kept up in the assumption of a political and meral excellence beyond the mental reach of our sires, and the consequent demand for an immediate sholdition of negr

ion h" has been thus conceded, proceeding on the "take an eil" principle demand, as a consequence of the precedent, the power to destroy we must withdraw all such concessions and go back to principles.

Second Foint.—The unconstitutional and revolutionary Anti-Slavery resolutions of April. 1857, cannot retact so as to affect this case (vol. 2, p. 797.—Weatminster Review, vol. 45, p. 73 to 98, article "Manifest Destiny"). From to that time, no legislative act of this State had ever declared that to breathe our air or touch our soil should work emancipation (spot facts) for had any statute been manched which by its true interpretation dended to our fellow-citizens of other States an uninterrupted transities through our territory with their negro siaves.

1. Independently of the special injunctions and guarantees of the Peccusi Constitution, the comity between the S axes of the American Union should be, and upon the true principles of inter-state jurisprudence is, of the most intimate and cordial kind.

III Inter-state consity, in its simplest form, awards a free transit to members of a friendly State with their families and rights of property, without disturbance of their domestic relations. (Carris Arg. 18 Pick. 185 and cases cited; Palne J., 5 Sanofone's R. 710; McDougall Arg., 4 Scarn, 467, 488).

III. Whatever there may do, no American Judge can pronounce slave property an exception to this rule upon the general around that Shavery is immoral or unjust. Every American regard at as being free frem any moral taint which could affect its claims to legal recognition and protection, so long as a state in the Union shall uploid it.

I. The previsions of the Federal Constitution for its protection cannot otherwise be kept in candor and good faith.

2. In this spirit, faithful Christians and even honorable unbelievers keep all lawfed contracts.

3. Portice made of kreping promises (Merchaut of Venice, act, a reach it is discouble only in respect to pacts having the contract, but which a violation is law crace. It is

The word "into" differs in meaning from the word " stillio" as used in the legislatura of 1807 and marks the characteristic difference between it and that of 1877.

2 It is impossible to give the legislation of 1817 the comprehender effect which was designed by the treasonable resolution of 1807. All will admit that a fugiture from Slavery in Vortuna foul 1807. All will admit that a fugiture from Slavery in Vortuna foul 1807. All will admit that a fugiture from Slavery in Vortuna foul 1807. All will admit that a fugiture from Slavery in Vortuna foul 1807. All will admit that a fugiture from Slavery in Vortuna foul 1807. All will shall be stated by through New York and carrying through the State was not, in the indemnation of the eart of 1807. (Confe by State). This Peter's R 621; Confe by Slaw, J. 10, Pick, 224)

Third Print -The State of New York cannot restrain a citizen of the Unit of States from peaceably passing turough for teritory with his slaves or other property on a lawful visit to a State where Slavery is allowed by law.

1. Congress has power "to remaine commerce with foreign nations, and among the several State and with the Indian "tribes." (Const. U.S., art. I, see 8, subd. 3.)

11. This power is absolutely exclusive in Congress, so that no State can constitutionally enact any remainion of commerce between the States whether Congress has excelled the same power over the matter in question or left is free (Passenger Caser, 7 How U.S. R. 632; Per McLesu J., 1 How, p. 490; Per Wayne J. and the Court, 1 How 40, 411; Per McKinley J., 7 How, 45; Per Story J. City of N.Y. act Milm II Peters 183, 185; Mc; Per Story J. City of N.Y. act Milm II Peters 183, 185; Mc; Per Story J. City of N.Y. act Milm II Peters 183, 185; Mc; Per Story J. City of N.Y. act Milm II Peters 183, 185; Mc; Per Story J. City of N.Y. act Milm II Peters 183, 185; Mc; Per Story J. City of N.Y. act Milm II Peters 183, 185; Mc; Per Story J. City of N.Y. act Milm II Peters 183, 185; Mc; Per Story J. City of N.Y. act Milm II Peters 183, 185

ward Guris per Marshall J. Gibbons v. Ogden, 5 Peters C. and IV. This doctrine does not preclude a State from exercising absolute centrol over all trading of any kind within her borders; ner from any precautionary regulations for the preservation of her citizens or their property from contact with any person or thing which might be dangerous or injurious to their health,

should central ever all trading of any kind within her borders; nor frem any precautionary resultations for the property of the property from contact with any person or thing which might be dangerous or injurious to their health, morals or safety.

"Over 16, 424, 426 to 428; per Grier J. 7 How 457; per Baidwill, 14 Peters 817; per Story J. 16 Peters 525; 5 How, 539, 470, 571; Gibbons v. Onden 9 Wheat 1, 5 Peters Cond. 573, Fourth Point The constitutional guaranty to "the citizens of each State" that they "shall be entitled to all privileges and immercities of citizens in the several states" (art. 4, 32, ands 1) afferds the citizen of any State, peacefully passing through active a right to immunity from such distortance as the piratin softers of from the order now under review.

1. This section would lose numed of its force and beneficial effect if it were construed to secure to the non-resident citizen in transiting through a State only such "rights" as such State may allow to its own citizens. Its object was to exampt him form State power, not to subject him to it.

1. Class legislation is deemed perfectly legitimate. A State may of the such as the such as the such as a such a as his property by the laws of his own State and the Fe-Constitution—is a manifest invasion of his just " privilege:

Constitution—as a member of the court in Dred immunities".

Firth Point.—The poneral destrines of the Court in Dred Court, case must be maintained, their alleged novelty not

as his property by the laws of his own State and the reaceral immunities."

Fifth Peint.—The general dectrines of the Court in Bred Scott's case must be meintained, their alleged novelty not state of the Court in Bred Scott's case must be meintained, their alleged novelty not be the state of the great mind of Chief Lustice Marslail; but at lest judical wisdom sharpened and impelled by strong necessity, cast saids these funnaterial includes and look in into the substance of things, found in the Constitution a government for our great rivers and inhand seas. (Genesse Chief v. Firkmen 12 Howards U.S. R. 4th; see Judge Denis's Dissett, p. 481)

II. While thus, in setual administration, some words used in our great political charters must thus be taken to comprehend more than was in the contemplation or intent of their framers, others, if we would preserve the Republic must be corefully infiled to the sphere covered by their mental visions at the time.

If Utah should make its peculiar institution a religious data, and should conduct its rites with all the decency and external posity of perferchal times. Cograces, within its sphere, and the servial States, within theirs, adjuit at the lestoney and external posity of perferchal times. Cograces, within its sphere, and the servial States, within theirs, adjuit at all lexislate against it to any extent without violating constitutional restraints. Our Republic was founded by a dividication with the existence of which this practice is incompatible. Self preservation, if not a low of nature, is an invariable practice among men.

2 The "men" of the declaration of independence in 1772; the "fire includational" species of included (2) Joint of includes all to whom these terms were lexicographically applicable. Indiana living in their tribes were not included (2) Joint 710, 734. 19 How 4601. The necessary application of the declaration of incependence in fine habitants" mentioned in the same forms in his problems. In advantage of philical power, an interese fail to the Republi

He to Stowell, 1 Dedson 29.)

MR EVARTS'S POINTS.

First Point: The writ of habens corpus belongs of right to every person restrained of liberty within this State, upner any posterie whother ver, unless by certain individual process of headers or Stets authority (1 Rev S. p. 265, 2 invasion, and (3) rather judicial discretion (Cons. Art. 1, § 4, 1 Rev. St., p. (55, 267, 2).

The office of the writ is to calarge the person in whose behalf the office of the writ is to calarge the person in whose behalf themes, unless legal came be shown for the restraint of liberty or its continuation and enlargement of liberty, unless such came to the contrary be shown, dows from the writ by the same legal recessity that required the writ to be issued (I Rev. St. p. 68, 608).

Second Point. The whole question, then, is this: Does the

cause to the contrary be shown, flow from the served (I Rev. set. p. 147, 4 db.).

Set. p. 147, 4 db.) The whole question, then, is this: Does the Newson's Point's. The whole question, then, is this: Does the Newson's Point's. The whole question, then, is this: Does the Newson's Point's. The whole question, then, is this: Does the Newson's Point's property of the Newson's Point's Point's

the control laws the posted relations, the civil conditions which the neverse States.

To a training prices are special and distinct, and prove the

They are:

1. In reference to the civil conditions obtaining a thin the States to function an entitional enumeration of persons as the brais of Freezist representation and direct transition distributively between the States.

2. In reference to the political rights of suffrage within the States are, respectively, supplying the brais of the Footral and free three in.

3. A precision securing to the editions of every State within tway often the pivileges and immunities to hatever they may be a seconded in each to its own obtains.

4. A provision preventing the laws or regulations of any State severing the civil condition of persons within in, from the minute of the condition of persons within in, from the ring upon the condition of persons which to service or law to in one State, under the laws thereof, escaping into an other. (Const. U. S., Art. I. see, 2, subd. I and 3; Art. IV, see, 2, subd. I ard 3; Art. IV, se

None of these previalens, in terms or by say intendment, support the right of the staves wher in his own State or in any other State, except the leat. This, by its terms, is limited to its special case and becausely eachedes Federal intervation in every other.

111. The common law of this State permits the existence of Sisvery in no case within its limits. (Cons., Art. L., § 17. Some creek? Conc., 29 How. St. Trials, 73. Knight vs. Weddelson 1d., § 2. Forbers v. Cockrane, 2. B. and C., § 48. Shanics vs. Harry, 2. Eden, 128. The Slave Grace, 1 Hags. Adm., 138. Stry Cond. Laws, § 96. Co. Lett., 124 h.

1V. The stehnic law of this State effects a indivarsal proactipition and prohibition of the condition of Sisvery, within the limits of the State (1 R.S. 1, 9, 69, § 1), 6. 2. R. St., p. 664, § 12. P. 676, § 13. Co. Lett., 124 h.

1V. The stehnic law of this State and via substance whether, under the principles of the Law of Nations, as governing the intercourse of friendly States, and as adopted and incorporated into the administration of our municipal law, comity requires the reconstition and support of the relation of sixve sance and elave between strangers passing through our territory, not withstanding the absolute policy and comprehensive legislation which prohibit that relation and render the civil condition of Sisvery impossible in our own society.

The comity, it is to be observed, under inquiry, is of the State and not of the Court, which latter has no authority to exercise county in behalf of the State, but only a judicial power of determining whether the main policy and actual legislation of the State exhibit the county inquired of (Story Coulf, Laws, § 36. Bk. Auansta vs. Earle, 13 Pet., 289, Dred Scott vs. Sandrod, 19 How., 561)

The Court should declare that the main policy and actual legislation of the State of the State of the via coverigue, as and, here is an adversarial to the State of the State, but only a substance of the state of the results of the state of the state of the state of the state o

Whenever and wherever the physical force in the one stage, Whenever and wherever the physical force in the scell force or municipal law in the other stage falls, the status falls, for it has nothing to rest upon.

To continue and defend the status, then, within our territory, the strater must appeal to some grundelpal law. He has brought with him no system of numicipal law to be a weapon are a shield to talk status; the finds no such system here. His appeal to force against mature, to law against justice, is vain,

breight a ith min hot years of noncepts less there. His appeal to force against nature, to law against matice, is valued in the first papea in the second of the second of the period of the second of

If the slave give birth to offspring, we have a native born slave.

If he owner, enforcing obedience to his caprices, maim or slay his slave, we must admit the status as a pica in bar to the public justice.

If the slave be tried for crime, upon his owner's complaint, the testimony of his fellow slaves must be excluded.

If the slave beingressend, or excented for crime, the value taken by the State must be made good to the owner, as for "private property taken for public use."

Everything or nothing, must be our answer.

(E) The rule of the Law of Nations, which permits the transit of strangers and their property through a friendly State, does not require our laws to uphoid the relation of slave-owner and slave between strangers.

By the Law of Nations, men are not the subject of property. By the Law of Nations, the modelpal law which make men the authent of strangers.

By the Law of Nations, then modelpal law which makes men the authent of the strangers, it is interested to property, is limited with the power to enforce these test is by its territorial jurisdiction.

By the Law of Nations, then, it is strangers stand upon our sell in their natural relations as men, their artificial relation being absolutely terminated. (The Antelope, 10 Wheat., 120, 131, and cases of supp. 6.)

(E) The principle of the Law of Na ions which attributes to the law of the domicile the power to fix the civil stains of permissible not require our laws to uphold, within our own territies, the relation of slave owner and slave between strangers. This principle out y requires us (1) to recognize the fereign law as an anthentic or left rand support of the actual catus.

It is thus that marriane contracted in a foreign domicile as contents of the status existing about an increase of polyanov, lawful in the foreign to the mining and trained to find committe and conting to mining enough the status.

ing nearleng here, with such traits as belong to that reis 1 yet, incertuous marriage or polygamy, leaving in an demicile, cannot be upheld as a leaf in continuing a here. (Story, Courl. Lawe, 10 51, 51 a, 19, 113, 114, 96,

Notice from a marked by the control of the control

In the Scherest case, Lord Manefeld beld a negro who had, been bought in Virginia and brought to Empland, to be free, (20) Howell, S. T. S.;

In 1824, the dectrine was applied to 38 slaves who came on based of a British man of-war off Frontia, having escaped from a Florida plantation. Admiral Cockborn held them to be free, as if the owner, Forbes, seed him in the King's Beach for their value. Judgment for defendant on the ground that they be came fire by coming on board a British sing, it being neutral territory. (2 Barn. & Cress. 428, and 5 Dowl. & Ryl., 697.)

In 1829, the Court of Appeals in Kautucky held, that where a dave born in Kentincky had been taken into Indiana under territorie hwe, silowing the introduction of slaves without their becoming free, and silvarward was brought to Kentucky, she became free.

The Court said, that "in deciding this question, we disclaim the influence of the general principles of liberty which we all advances in ought to be. Slavery is sanctioned by the law as it is, and notes it ought to be decided by the law as it is, and notes it ought to be decided by the law as it is, and notes it ought to be decided by the law as it is, and notes it ought to be decided by the law as it is, and notes it ought to be decided by the law as it is, and notes it ought to be decided by the law as it is, and notes it ought to be decided by the law of a me-

ow soft his dependence is unquestionable."

But we do with an a right entering by positive law of a model of closeror, without foundation in the law of nature, of a model observer, without foundation in the law of nature, or a model of the common law." (2d Marshell Rep. 479, Rangelland, 1998).

in gel cherecter, without foundation in the law of nature, or he in written and common law." (Id Marshall Rep., 479, Rankon, "It is the right of sucther to the labor of a slave, whether extended or not, which constitutes Slavery, or involuntary servitide. The right then, during the seven years whether extended or not, which can officials Slavery, or involuntary servitide. The right them, during the seven years extended to exist, and we are not aware of any law of this State which can of does bring into operation the right of Slavery when ones destroyed. It would be a construction without language to be constructed—implication without any acrap of law, written or nonwritten statutory or common, from which the Inference could be drawn to review the right to a slave, when that right left, p. 472.

In 1824, the Supreme Court of Louisians held that a slave taken from Kentneky into Ohio to reside, became free; and that having become free, removal into a Slave State with her master did not wake her after again (4 Martin's Rop., 40).

In 1825, the Supreme Court of Louisians held, that a slave taken into France, and afterward brought back to Louisians, betaken into France, and afterward brought back to Louisians, betaken into France, and afterward brought back to Louisians, between the (Martin Colleg ver, Martin, 3 Louis, Rep. 475).

In 1826, the sume Court held, that a person declared as a slave by a bill of sale executed in a Fine Fine or Territory, must be deemed free, unless the right of conveying him out of that State equid be justified by proving him to be a fugitive slave (Forsyth ve. Nach 4 Martin, 350).

Befort the act of 1695, the Court of Louisians had (Engelle ve. Poutsey, 11 h. 322; 1 Martin, Louis R., 401, Virginia ve. Himel., 10 Louis Ann. R. 103, Josephine Theory, and the sum of the sum of the second residence of freedgen (Milly ve. C subset, Mo. Rep., 25, in 1879).

And where an army officer lock his slave to his post in the Rate, the Court of Appeals in South Carolina, in pa sking in 1804, tha Carolina

tabeling in a Free State became free (Estians, Woles, I Pick, etc.)

In 1960, the Greerel Centr of Virginia held, that a slave taken by her mester into Massachusetta and brought best too Virginia was emitted to her freedom (61 Legh, R., 197, Commonwealth vs. Pinesand.)

Betty vs. Herten, th., 6'k—in this case the Court held that this freedom was acquired by the action of the law of Kaselbaus its top at the slave coming there.

In 1965, Chief-Justice Flaw held, that a sixre temperature of the provider in the Massachusetts, became free (Commonwealth vs. Aves, 18 Pick, R. 195).

Third Profet: The provider in Massachusetts, became free (Commonwealth vs. Aves, 18 Pick, R. 195).

Third Profet: The provider in the Pederal Constitution relating to the recovery of highway alays, receptizes the foregoing principle of universal periaprishene. For it slaves were head law a chist to that effect, there would be no meet of an express provision for their recovery, for property can be recovered at common law.

provision for their recovery, for property can be recovered at common law.

Moreover the obligation in the Constitution is limited to fastive slaves. When this provision was under discussion it was an ended by striking out the word "inguity" before "held to service." became some bought Savery could not be begul in a moral pelat of view, and substituting "under the leave theorem" (Journal of Federal Constitution, 1787, pages 305, 528, 524).

If was then deemed improver to admit in the Constitution the idea that there could be property in men. (Madison's Works, 1478.)

C. C. Pinckney, in speaking of this provision, ages: "We have obtained a right to recover our slaves, in whethers material and the idea of America they may take refuse—which is a right we had not before." (16 Peters, 648.)

Fourth Poist.—The persons here claimed as slaves, are free by the express exactment of the Legislature of this State. (1 R. b. part 1, til. 63, 7, 8, 1).

"No person held as a slave shall be imported, introduced, or hought into this State, on any pricense whatever. Every such person shall be free." "Every person brought into this State, as a slave shall be free." The exception critically mode in favor of persons in transity with their states, was repealed in 1881. (Ch. 267.)

The right to declare and control the condition of its chiteses is a right belonging to the States, and has not been conformed on the Pederal Government. Otherwise, the whole pastra over Slavery must be decemed within the centrol of Congress.

Fifth Persit.—They cannot be held by virtue of any prevision of the Constitution of the United States.

That full faith and credit shall be given in each State to each State, to the public sets of every other State. (Art. 4, 21.)

That no citizens shall be deprived of life, liberty, or property, when the deprived of life, liberty, or property, which is the control of the continuous of any previous of the Constitution of any previous of the control of the previous of the previous of the second state. (Art. 4, 21.)

Seate.

We give full faith and credit to the set of Virginia, that mod

We give full faith and credit to the act of Virginia, that used these persons states there.

We allow the appellant all the privileges and immunities of citizen of this State.

He has not been deprived of property by these proceedings. The appellant had no property in these persons. It considers the property when he brought them into the State of New Tork.

The Concitiution of the United States is a grant of powers to the General Government. It follows, by necessary consequence, that what is not granted is reserved.

If there is no grant of hower to enferce upon New Tork holigation to allow a citizen of a Slave State to bring his decrement, and retain them here as slaves while sojourning or possing through that State, the Gereral Government has not the power; and the right to do so does not exist.

New York having prohibited the act, no jurisdiction can declare her law unconstitutional.

Even in consenting to the reclamation of fugitives from survive, she does not acknowledge the law of Slavery.

She agrees to ignore that question, and not to inquire into the nature of the duty of service, on the part of the fugitive, whether a slave or an apprentice; but to result him to the Courts of the State from which he field.

But this is the extent of her duty. Her bond extends us further them to the fugitive.

As to all other persons, her laws protect their personal liberty against all claimants.

Sixth Point: These persons are not to be held as sives, under any implied covenants between the States of the Union, nor by any rule of comity.

I The provisions relating to the surrender of fugitives from service, is the only possible case where each an obligation can arise. And by incorporating this provision in the Constitution every other case is excluded. (Expressio unios, exclusio alterita.)

No comity of States requires us to admit Slavery into our State in any form.

In extending contributions.

tion every other case is excluded. (Expressio union, exclusion alterias.)

2 No comity of States requires us to admit Siavery into our State in any form.

In extending condity toward the laws of other States, it is the State and not the Gourt, that establishes the rule. (Chief Jassice Taney, in Augusta vs. Earle, 18 Paters, 563. Grotina, 5. it, ch. xxiii., 216.)

There can be no such counity here, because the State has made an express statute declaring these persons to be free.

Country is not an obligation to be enforced by a superior, but a courtesy allowed by the party assuming the duty.

In deciding whether country requires any act, we look to our own laws and adjudication for authority. And it can never be exercised in violatin of curl laws. (Story, Conflict of Laws, 65 32, 126, 57; Willard vs. The People, 4 Scam., 661; Commonwalli vs. Ayres, 19 Pick. Rep., 221; 3 Am. Junist, 44)

No comity requires us to allow an act here, by citizens of acother State, that if Jone by our own citizens would be a felony.

The comity of initions is based upon principles that destroy digits to hold these persons as laves.

Seventh Point: These person? cannot be restrained of their liberty, whatever may have been their state in Virginia.

If restrained of libertly here, it must be either under and by virtue of our laws, or under the laws of Virginia.

The alway prohibit any such holding. They furnish no remedy if the prace claimed refuse to be detained. The question here is, can they be detained? Certainly doe by our laway; and our courts can only administer our own laws. The laws of Virginia are not in force here.

If the slave resists, how can he be compelled to subjectical if they make repression they prove to associate the law, for such a case.

It folie we that our laws, in this respect, if they remain userial leave the parties to their natural rights.

This being so, the slave is free.

If the slave and our laws, in this respect, if they remain userial leave the parties to their natural rights.

The laws of Virginia are

persons, claimed as slaves, can be deemed as suce it our course justice.

About forty students presented themselves for admiration to the Bar on Wednesday afternoon. The examination was otal, and its result will be declared this morbing at the opening of the Court.

The Supreme Court Circuit Calendar for tomorrow will not then be called because of the absence of Judge Receivedt at General Term. On Monday, Justice Mitchell will call it and go on with the trial of causes.

Supreme Court, General Term.—The non-causerated Calendar will be called when the Lemmon case is concluded. The General Calendar will not be called again this term.

NITED STATES DISTRICT COURT-Oct. 1.-Before TNITED STATES DISTRICT COURT—Oct. 1.—Better Judge BERTS.

The Grand Jury this merning brought in the following Bills of Ludietment:—Against Antoise Rieddt, for passing counterfeit coin: John Ferris, John Kipp and Henry Odslee, for moughing: Robert Kane, soungring; William Cline, secult with dangerous wespon: John Miles, smuggling; Louis Harman, smuggling. The Court adjourned at an early hour. On Friday the case of the Merchant comes on, and the first of Edward O'Brien and Thomas Henry for endeavoring to make a revolt on beard the American saip Mero, will take place.

UNFIED STATES COMMISSIONER'S OFFICE—Oct. 1.

Before Bylles, Commissioner

Walter L. Schutz, pilot of the steam tug Smith,
was stair held to ball in the sum of \$3,000 on snother charge
of smuggling.

COURT OF COMMON PLEAS—CHAMBURS—Oct. L. Before Judge DALY.
Siegmand R. Mendel, Assignee of A. L. Leo & Brents agt. Mark Dele.—Motion to discharge arrest depied.

Siegmund K. Mendel, Assignee of A. L. 1400 & Beethers agt. Mark Dele.—Motion to discharge arrest denied.

COURT OF SPECIAL SESSIONS—Oct. I.—Before Justices Osnons and Connott.

This Court opened this morning with fifty-one cases on the calendar—40 prison cases, I suspended case, and 10 bed cases. Senuel Platt, of the prison cases, was arraigned for attempting to steal on the 2th of Sept. a watch worth \$3, from Geo. Long, No. 6 Clinton street. Accused tried to take the watch from deponent while he was looking at a presental, when deponent arrested him. Found guilty, and seat to the Penitratiary for six mouths.

Penitratiary for six mouths.

Penitratiary for six mouths.

Penitratiary for the mouths.

Jeht Gallagher was arraigned for a cruel assault and battery on his wife Catharine Gallagher, No 56 Baster treet, on the 2th Seytember. The arcused was said to be in the hight of getting drunk and beating his wife shamefully. Sent to the Penitratiary for six mouths.

Thos. Kearer was arraigned for assault and battery, the 2th September, en Marszetts Wengesse, No. 255 Fulcustriet. The accused is a water in the Frankin House, and a was charged with striking the deponent in her face and a was charged with striking the deponent in face and a sainst her holy a bile helding her against a wall. Sent to the Fenitratiary for three mouths.

Win Williams Joseph Farrell and Samuel Leater, trained for stesling on the 35th of Sept. a quantity of suct trained for stesling on the 35th of Sept. a quantity of suct cath \$25, from the steaming Bailmore, on the complaint of the oth \$25, from the steaming Bailmore, on the complaint of the first point of the first po

reagned for realing on the steamship Baltimore, on the complaint of worth \$15, from the steamship Baltimore, on the complaint of their going to the Mayerhouse, were discharged on condition of their going to the State of Sept., in that she did slap in the face Daniel terry, on the 26th Oregins of Price, or the 20th of the 18th Oregins of the 30th Price, or the state of 18th of the 18th Oregins of the 30th Price, or the address of the 40th Oregins of the 30th Oregins of boots, worth \$2, from Those, H. Perry, No. 500 8th av. 50f boots, worth \$3, from Those, H. Perry, No. 500 8th av. 50f boots, worth \$4, from Those, H. Perry, No. 500 8th av. 50f boots, worth \$4, from Those, H. Perry, No. 500 8th av. 50f boots, worth \$4, from Those, H. Perry, No. 500 8th av. 50f boots, worth \$4, from Those, H. Perry, No. 500 8th av. 50f boots, worth \$4, from Those, H. Perry, No. 500 8th av. 50f boots, worth \$4, from Filias Parker. No. 278 Broadway, a clock worth \$6. Defendant was caught carrying away the clock concaled under his clock. Convicted, and sent to the Pentitunitary for 6 months.

Philip McCorkey was arraigned for assault and battery, on the 28th of September, on John Lohman, No. 30 West Twenty in the street. Found guilty, and remanded to Satenday.

The case of Lucas Wesley, charged with assaults and battery, and that of Ellen Cronier, charged with assaults and battery, and that of Ellen Cronier, charged with assaults and battery, and that of ellen Cronier, charged with assaults and battery, and that of the Cronier, charged with assaults and battery on May Maron, No. 14 Baxter street, was withdeam (head, No. 310 West street. He was detected with the accuracy and two pair of shears, worth in all \$4, \$7, and Margares Baster, to the Pentitentiary for two months.

Jein Strinh, charged with stealing a coat, wet, cannot be a converted and their assaults and battery and battery on Baniel McDaulé, as a constant of two pair of shears, worth in all \$4, \$7, and Margares Baster, the charged with stealing a coat, wet, were both convict